

# **Committee on Resources**

## **Subcommittee on Water & Power**

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### **Witness Statement**

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## **Testimony of Jean Sagouspe**

### **President of the Family Farm Alliance**

### **"Transfer of Title of Bureau of Reclamation Facilities**

### **to Local Irrigation Authorities"**

### **Before the Water and Power Subcommittee**

### **Of the House Resources Committee**

### **February 2, 1999**

I am Jean Sagouspe, President of the Family Farm Alliance. I farm in the Central Valley of California and play an active role in water policy deliberations in California and throughout the West. On behalf of the Family Farm Alliance, I appreciate the opportunity to appear before your subcommittee today.

At the outset, I would like to thank you for having the foresight to move project title transfers through the Congressional process. I look forward to working with you to build on the progress you were able to make during the last Congress.

The Family Farm Alliance is a grassroots organization of family farmers, local irrigation agencies and related businesses in twelve western states. Our members are the Bureau of Reclamation's customers who depend on the government for fundamental services related to water supply, safety, and operations and maintenance. The Bureau is not living up to some of its responsibilities and is under pressure to do more things with fewer resources. I am here today appearing before your subcommittee because the customer is not satisfied.

#### **A GROWING NEED FOR LOCAL RESPONSIBILITY**

#### **OVER WATER PROJECT FACILITIES**

In the past several years, western irrigation districts have taken on a greater role in managing federal water projects under the jurisdiction of the Bureau of Reclamation. These projects are among the largest and most complex water delivery facilities developed. Often these local authorities have assumed complete

responsibility for operating and maintaining Bureau projects in a manner that is more cost effective than federal management allows. Local managers are simply more attuned to local needs and better able to respond to local pressures on a more timely basis than the Federal government.

In many instances, local project managers are prepared to take both title and operational transfer and are capable of performing fundamental tasks no longer necessary for the federal government to carry out. These locals are committed to keeping water rates at the lowest possible level for their customers. At the same time, project transfers will result in savings for the federal taxpayer with a reduction in federal administrative overhead costs.

With local operational capabilities to manage project expanding, local water users throughout the west have expressed an interest in project transfer. Concurrently, projects have become more expensive to maintain as older dams and canals are in need of upkeep. Declining federal budgets have led to increasing concerns by locals over limited federal fiscal resources for operations and maintenance. Thus, the local water users are looking at avenues to protect project facilities from deterioration that might have widespread economic impacts at the regional level. Eliminating the potential for problems through local control will continue to result in on-the-ground preventive maintenance.

While the Bureau has a policy for facility transfers and has held negotiations with a number of prospective project transfer proponents, we have been troubled by the relatively slow pace of the Bureau's administrative process. We believe it is necessary for the Congress to move expeditiously on project transfer legislation, particularly in cases where negotiations with the Bureau have made progress. Where the Bureau process has stalled, we still believe the Congress has the right to step in to streamline the federal process for transfer. While it is important to make an effort to work with the Bureau in fashioning acceptable agreements, Congressional action will be necessary whether or not an agreement can be reached on the administrative front.

## THE PROJECT TRANSFER COUNCIL SEEKS TO FACILITATE TITLE TRANSFER FOR OUR MEMBERS

Given this background, in 1997 the Family Farm Alliance set up the Project Transfer Council (PTC) to facilitate project transfers from the federal government to non-federal local water user entities. We serve a dual function - as advocates and as an information clearinghouse for those seeking local control of their facilities. Our priority is to decrease operational costs and improve efficiency so that local water users can take control of their own destiny in situations where direct federal involvement is no longer necessary.

The PTC has sought to assist our members in moving project transfers through the federal process by working directly with the Congress and the Administration. We seek passage of legislation that sets good precedent in a way that benefits both the federal government and the local water users, hopefully paving the way for faster processing of future transfers.

While we assisted a number of water agencies last year on the legislative front seeking project transfer, our priority was passage of legislation to convey certain facilities of the Minidoka Project in Idaho to the Burley Irrigation District. We are greatly appreciative of the efforts made by you, the Idaho delegation, other committee members and staff in enacting this legislation last year.

The stage is now set for more transfer legislation to pass during this Congress. We look forward to working

with you to assure passage of a number of project transfer bills, including, but not limited to: Pine River (Colorado), Sly Park (California), Wellton Mohawk (Arizona), Carlsbad (New Mexico), and Palmetto Bend (Texas). We would like to build on the progress you made last year in developing legislative language to implement these transfers.

### GUIDING PRINCIPLES FOR TITLE TRANSFER

Through the Congressional Western Water Caucus, back in October, 1997, a policy discussion was held on "Transferring Federal Water Projects to Non-Federal Ownership." Many of the issues raised at that session remain at the forefront of the anticipated debate on these bills in the coming year. These include water rights, contract commitments, environmental compliance, legal liability, and economic concerns.

We recognize that each project transfer is unique. For instance, transferring a single purpose project (e.g. irrigation) is less complicated to transfer than a multi-purpose project (that might include recreational purposes). Nonetheless, we advocate that a number of guiding principles be incorporated into any legislative proposal on project transfer.

.. **"Directed v. authorized"**: The legislation should direct, rather than authorize, the Department of the Interior to carry out the transfer.

.. **Time deadlines**: Specific time frames with incentives/penalties are essential.

.. **Valuation**: When a project has been "paid out," there should be no extra added charge for the local water user entity to pay the federal government. One of the cornerstones of Reclamation Law is that projects be transferred once they are paid off. There should be no extracted charge unrelated to the title transfer. Moreover, when a project has not been "paid out," the government should look to the net present value of the debt.

.. **Contractual Commitments** made by the federal government must be honored. For instance, in the case of Burley, Interior was required to provide Burley with project reserved power in accordance with the terms of existing contracts.

.. **Environmental Review**: If there is no change in the use and operations of the project once it is transferred to local control, there should be no need for new documentation associated with NEPA, and the legislation should so state. If there is the potential for a material change in project use and operations, a NEPA review should be conducted in a timely fashion with time deadlines.

.. **Liability** should be transferred to the local entity for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities (except for damages caused by acts of negligence committed by the U.S. or its agent prior to the date of conveyance). Legislation should make clear how liability is allocated (or at least provide immunity for local agencies against liability assigned to the United States).

.. **Water rights** that are required or helpful for the local entity to take control of the project should be transferred along with the facilities.

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In closing, we look forward to working with the Congress and the Administration in facilitating project transfers on behalf of our members. While we are willing to work with all local stakeholders in both the administrative and legislative arenas, there is no entity with "more at stake" than the local operator of the project in that community.

Thank you for the opportunity to appear before the committee today. I would be pleased to answer any questions you may have.

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